

## CITY OF ALBUQUERQUE

IN THE MATTER OF THE PROMULGATION OF THE REGULATION GOVERNING THE  
AWARD AND REJECTION OF BIDS AND DEBARMENT OF CONTRACTORS FOR  
PUBLIC WORKS PROJECTS OF THE CITY OF ALBUQUERQUE

### CITY HEARING OFFICER'S REPORT, FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS AND ORDER

On June 5, 2008 @ 4:00 pm, a public hearing (hereafter, the "Hearing") was held pursuant to policy allowing the public due process rights to review and make public comment on proposed regulation. The Hearing was held for the purpose of adopting the proposed Regulation Governing the Award and Rejection of Bids and Debarment of Contractors for Public Works Projects of the City of Albuquerque (hereinafter the "Regulation"). The hearing was held before Hearing Officer, Stanley D. Harada (hereafter, the "Hearing Officer"), at the City of Albuquerque Administrative Hearings Offices, First Plaza Galeria, 200 3<sup>rd</sup> St. NW, 7<sup>th</sup> Floor, Suite 735, in Albuquerque, New Mexico, pursuant to a Notice of Hearing which was posted in the lobby of City Hall, posted electronically on the City Clerk of Albuquerque's web site dedicated to the schedule of rule making hearings and meetings of public boards, commissions and committees.

In addition, the Hearing Officer allowed 10 days for additional written comments after the day of the Hearing.

The purpose of the hearing was to take comments and suggestions on the adoption of the Regulation. Attending the Hearing were: Gregory P. Smith, Assistant City Attorney; Michael Riordan, Deputy Director, DMD, COA; Peter Pierotti, Assistant City Attorney, Darlene Garcia, COA; Anita Boulton, ABCWUA; Tom Rojas, City of Albuquerque Independent Office of Hearings.

Comments included the following statements: Gregory Smith advised the Hearing Officer of a technical error in paragraph 5.6, page 22, to wit: "Assistant Director" should be changed to "Deputy Director."

This correction was accepted and made a part of the record of the Hearing.

### FINDINGS

1. The Hearing Officer was appointed March 25, 2008, by Bruce J. Perlman, Ph.D., Chief Administrative Officer, City of Albuquerque, New Mexico to preside over the Hearing, and to make recommendations to Mayor Martin Chavez regarding the proposed Regulation.

2. Written Notice of the hearing was posted in the lobby of City Hall, posted on the door of the City Administrative Hearing

Offices and electronically posted on the City Clerk's web site. The Notice advised of the scheduled rule making hearings and meetings of public boards, commissions and committees and given to the Mayor and the Chief Administrative Officer on or before May 22, 2008.

3. The Hearing for public comment on the proposed Regulation was held on June 5, 2008.

4. All present at the Hearing were given the opportunity to comment.

5. Greg Smith, Assistant City Attorney advised of the need for a technical amendment in paragraph 5.A, page 22, changing "Assistant Director" to "Deputy Director". The recommendation was accepted. No other comments were made regarding the wording of the Regulation.

6. All persons were allowed 10 days after the hearing to provide additional written comments until the close of business June 16, 2008. No additional written comments were received.

7. All verbal comments at the hearing were accepted and considered by the Hearing Officer.

8. Section 5-5-11-B, Revised Ordinances, City of Albuquerque, New Mexico, 1974, (hereafter, the "Ordinance") allows the Regulation to govern the Award and Rejection of Bids and such other matters as the Mayor deems desirable for the efficient administration of capital contracts.

9. The City is a home rule municipality.

#### CONCLUSIONS

1. Notice of the hearing allowed adequate time for the public to respond to the proposed and promulgated Regulation.

2. The appointment of the Hearing Officer by the Chief Administrative Officer was proper and valid.

3. The Ordinance allows the Mayor to promulgate Regulation Governing The Award And Rejection Of Bids and such other matters as the Mayor deems desirable for the efficient administration of capital contracts and the Regulations governing the award of such contracts and/or a matter desirable for the efficient administration of capital contracts.

4. The Regulation was passed pursuant to the requirements of the Ordinance.

5. The Regulation is authorized by the Ordinance.

6. Based on all of the foregoing, the requirements of law regarding the adoption of the Amendments to the Regulation have been followed and the adoption of these Amendments to the Regulation is not arbitrary, capricious, or contrary to law.

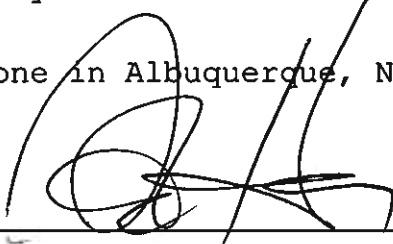
RECOMMENDATION

The Hearing Officer recommends that the Regulation be approved and adopted as shown on the attached Regulation. Based on the Reports, Findings, and Conclusions heretofore and the Exhibits hereto,

ORDER

Upon approval of this recommendation by the City Attorney, Chief Administrative Officer and Director of the Department of Municipal Development, and upon the signing of the Regulation by the Mayor, the Hearing Officer ORDERS that the Regulation be, and hereby IS, approved and that they be filed with the Albuquerque City Clerk forthwith.


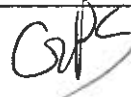
Done in Albuquerque, New Mexico, this 30 day of June, 2008.

  
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Stanley D. Harada  
Independent Hearing Officer

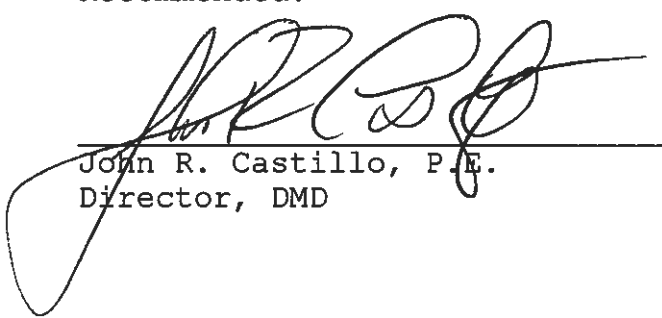
Approved:

  
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Ed Adams, P.E.  
Acting Chief Administrative Officer

Approved as to Legal Form:

  
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Robert M. White  
City Attorney

Recommended:

  
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John R. Castillo, P.E.  
Director, DMD